

§ 1033.815 Maintenance, operation, and repair.

All persons who own, operate, or maintain locomotives are subject to this section, except where we specify that a requirement applies to the owner.

(a) Unless we allow otherwise, all owners of locomotives subject to the provisions of this part must ensure that all emission-related maintenance is performed on the locomotives, as specified in the maintenance instructions provided by the certifying manufacturer/remanufacturer in compliance with § 1033.125 (or maintenance that is equivalent to the maintenance specified by the certifying manufacturer/remanufacturer in terms of maintaining emissions performance).

(b) Perform unscheduled maintenance in a timely manner. This includes malfunctions identified through the locomotive's emission control diagnostics system and malfunctions discovered in components of the diagnostics system itself. For most repairs, this paragraph (b) requires that the maintenance be performed no later than the locomotive's next periodic (92-day) inspection. See paragraph (e) of this section, for reductant replenishment requirements in a locomotive equipped with an SCR system.

(c) Use good engineering judgment when performing maintenance of locomotives subject to the provisions of this part. You must perform all maintenance and repair such that you have a reasonable technical basis for believing the locomotive will continue (after the maintenance or repair) to meet the applicable emission standards and FELs to which it was certified.

(d) The owner of the locomotive must keep records of all maintenance and repairs that could reasonably affect the emission performance of any locomotive subject to the provisions of this part. Keep these records for eight years.

(e) For locomotives equipped with emission controls requiring the use of specific fuels, lubricants, or other fluids, proper maintenance includes complying with the manufacturer/remanufacturer's specifications for such fluids when operating the locomotives. This requirement applies without re-

gard to whether misfueling permanently disables the emission controls. The following additional provisions apply for locomotives equipped with SCR systems requiring the use of urea or other reductants:

(1) You must plan appropriately to ensure that reductant will be available to the locomotive during operation.

(2) If the SCR diagnostic indicates (or you otherwise determine) that either reductant supply or reductant quality in the locomotive is inadequate, you must replace the reductant as soon as practical.

(3) If you operate a locomotive without the appropriate urea or other reductant, you must report such operation to us within 30 days. Note that such operation violates the requirement of this paragraph (e); however, we may consider mitigating factors (such as how long the locomotive was operated without the appropriate urea or other reductant) in determining whether to assess penalties for such violations.

(f) Failure to fully comply with this section is a violation of 40 CFR 1068.101(b).

§ 1033.820 In-use locomotives.

(a) We may require you to supply in-use locomotives to us for testing. We will specify a reasonable time and place at which you must supply the locomotives and a reasonable period during which we will keep them for testing. We will make reasonable allowances for you to schedule the supply of locomotives to minimize disruption of your operations. The number of locomotives that you must supply is limited as follows:

(1) We will not require a Class I railroad to supply more than five locomotives per railroad per calendar year.

(2) We will not require a non-Class I railroad (or other entity subject to the provisions of this subpart) to supply more than two locomotives per railroad per calendar year. We will request locomotives under this paragraph (a)(2) only for purposes that cannot be accomplished using locomotives supplied under paragraph (a)(1) of this section.

(b) You must make reasonable efforts to supply manufacturers/remanufacturers with the test locomotives needed to